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HOUSE BILL 489

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Al Park

AN ACT

RELATING TO CRIMINAL SENTENCING; INCREASING PENALTIES FOR  
HOMICIDE BY VEHICLE; INCREASING PENALTIES FOR GREAT BODILY HARM  
BY VEHICLE; CREATING OFFENSES FOR CAUSING INJURY BY VEHICLE;  
PROVIDING PENALTIES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-101 NMSA 1978 (being Laws 1978,  
Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY [~~INJURY~~]  
HARM BY VEHICLE--INJURY BY VEHICLE. --

A. Homicide by vehicle is the killing of a human  
being in the unlawful operation of a motor vehicle.

B. Great bodily [~~injury~~] harm by vehicle is the  
injuring of a human being, to the extent defined in Section  
30-1-12 NMSA 1978, in the unlawful operation of a motor

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1 vehicle.

2 C. Injury by vehicle is the injuring of a human  
3 being, to an extent less than great bodily harm, in the  
4 unlawful operation of a motor vehicle.

5 [~~C.—Any~~] D. A person who commits homicide by  
6 vehicle or great bodily [injury] harm by vehicle upon a child  
7 while under the influence of intoxicating liquor or while under  
8 the influence of any drug or while violating Section 66-8-113  
9 NMSA 1978 is guilty of a [third] first degree felony and shall  
10 be sentenced pursuant to the provisions of Section 31-18-15  
11 NMSA 1978. [provided that] A violation of speeding laws as set  
12 forth in the Motor Vehicle Code shall not per se be a basis for  
13 violation of Section 66-8-113 NMSA 1978.

14 E. A person who commits homicide by vehicle upon an  
15 adult while under the influence of intoxicating liquor or while  
16 under the influence of any drug or while violating Section  
17 66-8-113 NMSA 1978 is guilty of a second degree felony  
18 resulting in the death of a human being and shall be sentenced  
19 pursuant to the provisions of Section 31-18-15 NMSA 1978. A  
20 violation of speeding laws as set forth in the Motor Vehicle  
21 Code shall not per se be a basis for violation of Section  
22 66-8-113 NMSA 1978.

23 F. A person who commits great bodily harm by  
24 vehicle upon an adult while under the influence of intoxicating  
25 liquor or while under the influence of any drug or while

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1 violating Section 66-8-113 NMSA 1978 is guilty of a second  
2 degree felony and shall be sentenced pursuant to the provisions  
3 of Section 31-18-15 NMSA 1978. A violation of speeding laws as  
4 set forth in the Motor Vehicle Code shall not per se be a basis  
5 for violation of Section 66-8-113 NMSA 1978.

6 G. A person who commits injury by vehicle while  
7 under the influence of intoxicating liquor or while under the  
8 influence of any drug or while violating Section 66-8-113 NMSA  
9 1978 is guilty of a third degree felony and shall be sentenced  
10 pursuant to the provisions of Section 31-18-15 NMSA 1978. A  
11 violation of speeding laws as set forth in the Motor Vehicle  
12 Code shall not per se be a basis for violation of Section  
13 66-8-113 NMSA 1978.

14 ~~[D.—Any]~~ H. A person who commits homicide by  
15 vehicle or great bodily ~~[injury]~~ harm by vehicle while under  
16 the influence of intoxicating liquor or while under the  
17 influence of any drug, as provided in ~~[Subsection C of]~~ this  
18 section, and who has incurred a prior DWI conviction within ten  
19 years of the occurrence for which he is being sentenced under  
20 this section shall have his basic sentence increased by two  
21 years for each prior DWI conviction. The sentence imposed  
22 pursuant to this subsection shall not be suspended or deferred.

23 ~~[E.]~~ I. For the purposes of this section, "prior  
24 DWI conviction" means:

25 (1) a prior conviction under Section 66-8-102

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1 NMSA 1978; or

2 (2) a prior conviction in New Mexico or any  
3 other jurisdiction, territory or possession of the United  
4 States or of a tribe when the criminal act is driving under the  
5 influence of alcohol or drugs.

6 [F.—Any] J. A person who willfully operates a  
7 motor vehicle in violation of Subsection C of Section 30-22-1  
8 NMSA 1978 and directly or indirectly causes the death of or  
9 great bodily [injury] harm to a [human-being] child is guilty  
10 of a [third-degree-felony] first degree felony and shall be  
11 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
12 1978.

13 K. A person who willfully operates a motor vehicle  
14 in violation of Subsection C of Section 30-22-1 NMSA 1978 and  
15 directly or indirectly causes the death of an adult human being  
16 is guilty of a second degree felony resulting in the death of a  
17 human being and shall be sentenced pursuant to the provisions  
18 of Section 31-18-15 NMSA 1978.

19 L. A person who willfully operates a motor vehicle  
20 in violation of Subsection C of Section 30-22-1 NMSA 1978 and  
21 directly or indirectly causes great bodily harm to an adult  
22 human being is guilty of a second degree felony and shall be  
23 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
24 1978.

25 M A person who willfully operates a motor vehicle

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1 in violation of Subsection C of Section 30-22-1 NMSA 1978 and  
2 directly or indirectly causes injury to a human being is guilty  
3 of a third degree felony and shall be sentenced pursuant to the  
4 provisions of Section 31-18-15 NMSA 1978. "

5 Section 2. EFFECTIVE DATE. --The effective date of the  
6 provisions of this act is July 1, 2004.

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